

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

YUNG HSIEN CHIANG,

Plaintiff,

v.

MING HO YANG,

Defendants.

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CIVIL ACTION NO. 06-0286-WS-C

ORDER

The complaint in this action was filed May 8, 2006, and summons issued the same date. (Docs. 1, 2). Nevertheless, the file reflects no proof of service almost five months later. Accordingly, by order entered September 19, 2006, the Court ordered the plaintiff, on or before October 3, 2006, to file proof of service or show cause why this action should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). (Doc. 4). The plaintiff has filed nothing in response to this order.¹ Because the plaintiff has not shown good cause for its failure to serve the defendant, dismissal is appropriate under Rule 4(m).

Moreover, an inadequately explained delay in perfecting service provides grounds for dismissal for lack of prosecution under Rule 41(b), especially when the plaintiff himself, rather than counsel, is at fault and when the complaint was not filed until the limitations period neared expiration. *See Veazey v. Young's Yacht Sale & Service, Inc.*, 644 F.2d 475 (5th Cir. 1981).

Finally, the complaint on its face reflects the absence of subject matter jurisdiction. No federal statute is invoked, and the amount in controversy is shown as roughly \$12,000. Federal courts are of limited jurisdiction, and this Court has an independent and continuing obligation to confirm its subject matter jurisdiction, even when the parties do not question its existence. *University of South Alabama v. American Tobacco Co.*, 168 F.3d 409, 411 (11th Cir. 1999); *accord Smith v. GTE Corp.*, 236 F.3d 1292, 1299 (11th Cir. 2001).

For the reasons set forth above, this action is **dismissed without prejudice**.

¹The order, which was mailed to the only address the plaintiff has provided, was returned as "attempted not known."

DONE and ORDERED this 5th day of October, 2006.

s/ WILLIAM H. STEELE
UNITED STATES DISTRICT JUDGE